

Stephen G. Wilcox
State Bar Number 21454300
WILCOX LAW, PLLC
P.O. Box 201849
Arlington, TX 76006
(817) 870-1694 Telephone
(817) 870-1181 Facsimile
swilcox@wilcoxlaw.net

ATTORNEY FOR AMERICREDIT FINANCIAL SERVICES, INC. D/B/A GM FINANCIAL

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

IN RE:	§	
	§	
VIVECA WILSON,	§	CASE NO. 15-30841-BJH-7
DEBTOR,	§	
	§	
AMERICREDIT FINANCIAL SERVICES,	§	
INC. D/B/A GM FINANCIAL,	§	
MOVANT,	§	
	§	
VS.	§	
	§	A Hearing on the Motion for
VIVECA WILSON	§	Relief from the Automatic Stay
AND DANIEL SHERMAN, TRUSTEE,	§	or, in the Alternative, Request
RESPONDENTS.	§	for Adequate Protection set:
	§	NOVEMBER 7, 2018 AT 9:00 A.M.

MOTION FOR RELIEF FROM THE AUTOMATIC STAY
OR, IN THE ALTERNATIVE, REQUEST FOR ADEQUATE PROTECTION

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

COMES NOW, Americredit Financial Services, Inc. d/b/a GM Financial ("Americredit"), Movant herein, complaining of Viveca Wilson ("Debtor") and Daniel Sherman ("Trustee"), Respondents herein, and for cause of action would respectfully show the Court as follows:

1. This Court has jurisdiction over this proceeding pursuant to 28 U.S.C. §§ 1334 and 157 and 11 U.S.C. § 362. This is a core proceeding.
2. Americredit is a secured creditor of the above-referenced Debtor by virtue of a security interest in a 2012 Toyota Camry, Vehicle Identification Number 4T1BF1FK3CU130157.
3. The Contract has fully matured and the entire net balance is due and owing.
4. As of October 10, 2018, Debtor herein was indebted to Americredit in the net contractual balance of \$5,859.57.

5. Americredit demands proof of and maintenance of insurance on the vehicle, listing Americredit as loss-payee and otherwise acceptable to Americredit. If the vehicle is uninsured, it constitutes cause to terminate the automatic stay.

6. But for the automatic stay, Americredit could and would foreclose its lien on the collateral in which it holds a security interest.

7. Americredit does not have, and neither Debtor nor the Trustee are able to offer, adequate protection of Americredit's interest in the collateral securing Americredit's debt.

8. If Debtor elects to retain the collateral, Debtor should be required to either redeem the collateral or reaffirm the debt, with the redemption or reaffirmation to be completed within ten (10) days of the date a hearing on this Motion is set, with a termination of the automatic stay if the Debtor does not comply. 11 U.S.C. § 521(a)(2) provides that a Debtor in bankruptcy has three options regarding the collateral. A Debtor can surrender the collateral. If a Debtor wants to retain the collateral, the Debtor can either redeem the collateral or reaffirm the debt secured by the collateral. If a Debtor does not perform one of these three options, then the statute provides for termination of the automatic stay.

9. Because the collateral described herein depreciates and may not be insured, any Order either terminating or conditioning the automatic stay should be effective immediately and there should be no stay of the Order for fourteen days after the entry of the Order.

WHEREFORE, PREMISES CONSIDERED, Americredit Financial Services, Inc. d/b/a GM Financial prays for:

1. An Order of this Court granting Americredit relief from the automatic stay imposed pursuant to 11 U.S.C. § 362;

2. An Order of this Court authorizing Americredit to take immediate possession of the collateral which is the subject of this Motion and foreclose its lien on the collateral;

3. An Order of this Court requiring Debtor, if Debtor is going to retain the collateral, to reaffirm the debt within ten (10) days of the date set for a hearing on this Motion or to redeem the collateral in full within the same time period and providing for a termination of the automatic stay if the Debtor does not comply;

4. In the alternative, an Order of this Court requiring Debtor to provide Americredit with adequate protection of its interest in the collateral;

5. An Order of this Court finding that any Order entered with regard to this Motion should be effective immediately upon its entry and should not be stayed for fourteen days following the entry of said Order; and

6. For such other and further relief, both general and specific, to which Americredit may show itself justly entitled.

Respectfully submitted,

/s/ Stephen G. Wilcox
Stephen G. Wilcox
State Bar Number 21454300
WILCOX LAW, PLLC
P.O. Box 201849
Arlington, TX 76006
(817) 870-1694 Telephone
(817) 870-1181 Facsimile
swilcox@wilcoxlaw.net
ATTORNEY FOR AMERICREDIT
FINANCIAL SERVICES, INC. D/B/A GM
FINANCIAL

NOTICE REGARDING REQUIRED ANSWER

PURSUANT TO LOCAL BANKRUPTCY RULE 4001-1(b), A RESPONSE IS REQUIRED TO THIS MOTION, OR THE ALLEGATIONS IN THE MOTION MAY BE DEEMED ADMITTED, AND AN ORDER GRANTING THE RELIEF SOUGHT MAY BE ENTERED BY DEFAULT.

ANY RESPONSE SHALL BE IN WRITING AND FILED WITH THE CLERK OF THE UNITED STATES BANKRUPTCY COURT AT EARLE CABELL FEDERAL BUILDING, 1100 COMMERCE ST., RM. 1254, DALLAS, TX 75242-1496 BEFORE CLOSE OF BUSINESS ON OCTOBER 30, 2018, WHICH IS AT LEAST 14 DAYS FROM THE DATE OF SERVICE HEREOF. A COPY SHALL BE SERVED UPON COUNSEL FOR THE MOVING PARTY AND ANY TRUSTEE OR EXAMINER APPOINTED IN THE CASE. ANY RESPONSE SHALL INCLUDE A DETAILED AND COMPREHENSIVE STATEMENT AS TO HOW THE MOVANT CAN BE “ADEQUATELY PROTECTED” IF THE STAY IS TO BE CONTINUED.

CERTIFICATE OF CONFERENCE

I, the undersigned, hereby certify that prior to the filing of this Motion, I did the following:

My office contacted Debtor’s attorney regarding opposition to the Motion. As of the filing of this Motion, a response has not been received.

/s/ Stephen G. Wilcox
Stephen G. Wilcox

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing Motion for Relief from the Automatic Stay or, in the Alternative, Request for Adequate Protection was served by FIRST CLASS MAIL, POSTAGE PREPAID on:

Viveca Wilson
1505 Osage Trail
Mesquite, TX 75149

and by ELECTRONIC FILING on:

Dwain Downing
1178 W. Pioneer Parkway
Arlington, TX 76013

Daniel Sherman
509 N. Montclair
Dallas, TX 75208

Office of the U.S. Trustee
1100 Commerce, Room 976
Dallas, Texas 75242

on October 16, 2018.

/s/ Stephen G. Wilcox
Stephen G. Wilcox

SUMMARY OF EXHIBITS

1. Vehicle Retail Instalment Contract dated July 2, 2012 on a 2012 Toyota Camry, Vehicle Identification Number 4T1BF1FK3CU130157.
2. Certificate of Title on a 2012 Toyota Camry, Vehicle Identification Number 4T1BF1FK3CU130157.

*Copies of Exhibits are available by written request to:

Kim Raudry
Wilcox Law, P.L.L.C.
P.O. Box 201849
Arlington, TX 76006
kraudry@wilcoxlaw.net.com

9040/00111/466449